## UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

Teddy Miller, et al.,

Plaintiffs,

-v-

Wells Fargo & Co., et al.,

Defendants.

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20-cv-3870 (AJN)

**ORDER** 

## ALISON J. NATHAN, District Judge:

On July 17, 2020, Defendants filed a partial motion to dismiss. Pursuant to Rule 3.F. of this Court's Individual Practices in Civil Cases, on or before July 27, 2020, Plaintiff must notify the Court and its adversary in writing whether (1) it intends to file an amended pleading and when it will do so or (2) it will rely on the pleading being attacked. Plaintiff is on notice that declining to amend its pleadings to timely respond to a fully briefed argument in the Defendants' July 17 motion to dismiss may well constitute a waiver of the Plaintiff's right to use the amendment process to cure any defects that have been made apparent by the Defendants' briefing. *See Loreley Fin. (Jersey) No. 3 Ltd. v. Wells Fargo Sec., LLC.*, 797 F.3d 160, 190 (2d Cir. 2015) (leaving "unaltered the grounds on which denial of leave to amend has long been held proper, such as undue delay, bad faith, dilatory motive, and futility").

If Plaintiff chooses to amend, Defendants may then (a) file an answer; (b) file a new motion to dismiss; or (c) submit a letter stating that they rely on the initially-filed motion to dismiss.

Nothing in this Order alters the time to amend, answer or move provided by the Federal Rules of Civil Procedure or Local Rules.

SO ORDERED.

Dated: July 20, 2020

New York, New York

ALISON J. NATHAN United States District Judge